

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

SAMUEL E. MAXTON,

Plaintiff,

VS.

DIRECTOR, OFFICE OF  
PERSONNEL MANAGEMENT,

Defendant.

[illegible]

Case No. 1:10-cv-181

Weber, J.  
Wehrman, M.J.

**REPORT AND RECOMMENDATION<sup>1</sup> THAT PLAINTIFF’S COMPLAINT BE  
DISMISSED, AND THIS CASE CLOSED, PURSUANT TO THE PENDING  
SHOW CAUSE ORDER (Doc. 7)**

The Court previously entered a Show Cause Order in this civil action, advising plaintiff that his complaint would be dismissed due to his failure to effect timely service of process of the summons and complaint. (See Doc. 7, citing *Friedman v. Estate of Presser*, 929 F.2d 1141, 1156 (6<sup>th</sup> Cir. 1991)(additional citations omitted)). As explained in that order, Rule 4(m) of the Federal Rules of Civil Procedure states that a court “must dismiss the action without prejudice” if a plaintiff fails to serve the defendant within 120 days after the complaint is filed.

Because the time deadline set forth in the Show Cause Order has now passed without plaintiff having timely completed service of process of the summons and complaint and/or filed any responsive pleading, the undersigned **RECOMMENDS** that plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE** for failure of service of process and that this case be **CLOSED**.

<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

Date: September 15, 2010

s/ J. Gregory Wehrman  
J. Gregory Wehrman  
United States Magistrate Judge

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## NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FIFTEEN (15) DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **TEN (10) DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981).